

Filed for Record in:
BEXAR COUNTY, TX
GERRY ROCKOFF, COUNTY CLERK

**THIRD AMENDMENT TO THE
DECLARATION OF PROTECTIVE COVENANTS
FOR THE DOMINION COTTAGE ESTATES**

Receipt #: 206711
Recordings: 23.00
Doc/Fest: 6.00

WHEREAS, on or about March 27, 1986, the Declaration of Protective Covenants for the Dominion Cottage Estates ("the Declaration") was filed of record in Volume 3856, Pages 1033-1055, Real Property Records, Bexar County, Texas; and

WHEREAS, a correction and amendment to the Declaration of Protective Covenants for the Dominion Cottage Estates ("the First Amendment") was filed on or about September 13, 1988 to correct a typographical error and is filed of record in Volume 4397, Page 1416, Real Property Records, Bexar County, Texas; and

WHEREAS, on or about December 12, 1988 a correction and amendment to the Declaration of Protective Covenants for the Dominion Cottage Estates (the "Second Amendment") was filed of record in Volume 4463, Page 155, Real Property Records, Bexar County, Texas; and

WHEREAS, the owners of the legal title to seventy percent (70%) of the lots within the subdivision have agreed in writing to further amend certain provisions of the Declaration;

WHEREAS, Sutton Dominion, Ltd. is the Assignee of the Declarant rights by Assignment of Declarant Rights, filed July 27, 1994 to be effective July 15, 1994, recorded in Volume 6149, Page 838, Real Property Records, Bexar County, Texas.

NOW, THEREFORE, the following amendments have been approved by the owners with legal title to 70% of the lots subject to the Declaration:

1. Section (h) of Article I Definitions shall be amended and restated as follows:

**Article I
Definitions**

- (h) Sale and Development Period shall be that period of time commencing on the sale of the first lot to an owner other than Declarant and extending until December 31, 1996.

VOL. 6695, Pg. 1890

2. Article IV shall be amended and restated in its entirety to read as follows:

**Article IV
Membership And Voting Rights**

Section 1. Members. Declarant and every Owner of a lot which is subject to assessment shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot which is subject to assessment.

Section 2. Voting Rights. The Association shall have one (1) class of voting membership. Each Owner of lots in Units One, Two and Four of the Dominion Cottage Estates Subdivision PUD shall be a voting member of the Association, and shall be entitled to one vote per lot. Each Owner, other than Declarant, of a lot in Dominion Cottage Estates Subdivision Unit 3 PUD ("Unit 3 Lots") shall be a voting member of the Association, and shall be entitled to one vote per lot. The Declarant shall not be entitled to vote for any lots owned by Declarant in the Dominion Cottage Estates Subdivision Unit 3 PUD until such time as seventy percent (70%) of the Unit 3 Lots have been sold to Owners other than Declarant or its successor or assigns; provided, however, notwithstanding the foregoing, Declarant shall be entitled to vote on any amendment to the Declaration. At such time as all phases of Unit 3 have been platted, and seventy percent (70%) of the Unit 3 Lots have been sold by Declarant and Declarant begins paying assessments to the Association for the undeveloped Lots in Unit 3 owned by Declarant (the "Declarant Unit 3 Lots"), Declarant shall then have voting rights as to the Unit 3 Lots which it owns, as long as it has paid in full all assessments for such lots, and shall be entitled to one vote per lot. Unit 3 Lots shall be defined as those lots within Unit 3 which have been platted pursuant to a Plat recorded in the Plat Records of Bexar County, Texas. Such membership requirement is set out in Article VI of the Articles of Incorporation of the Association. When more than one person holds such interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any lot. Should a dispute arise among the Owners of any one lot, and after a reasonable period of time, not to exceed five (5) minutes for them to determine their vote, the president of the Association may exclude their vote and continue with the affairs of the meeting.

Section 3. Board of Directors. The Board of Directors shall be elected by the voting members of the Association. The voting rights of Declarant for the Declarant Unit 3 Lots are set forth in Section 2 above.

3. Article V, Section 1 shall be amended and restated in its entirety as follows:

Article V

Section 1. Creation of the Lien and Personal Obligation of Assessments. Except as set forth in Article V, Section II, below, the Declarant, for each lot owned within Units 1, 2, 3 or 4 of the Dominion Cottages Estates Subdivision hereby covenants, and each Owner of any lot, within the Properties, including Declarant, by acceptance of a deed therefore, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges and (2) special assessments for repairs to capital improvements, such assessments to be established and collected as hereinafter provided. Such assessments, both annual and special shall be uniform for each lot within the Properties. When an Owner constructs a residence on more than one lot, the assessment shall be based on the number of lots owned as currently depicted on Exhibit A, attached hereto and incorporated herein by reference, for Units 1, 2 and 4, and as platted for Unit 3. The annual and special assessments, together with interest, costs and reasonable attorney's fees, shall be a charge on the land and shall be secured by a continuing vendor's lien upon the property against which each such assessment is made. Each such assessment, together with interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who is the owner of such property at the time when the assessment fell due, and the personal obligation for delinquent assessment shall be the responsibility of the current owner and his successors in title.

4. Article V, Section 6 shall be amended and restated in its entirety as follows:

Section 6. Uniform Rate of Assessment. Annual and special assessments shall be fixed at a uniformed rate for all lots as follows:

- (a) Undeveloped, unimproved Declarant Unit 3 Lots owned by Declarant, provided Declarant owns thirty percent (30%) of the Unit 3 Lots-None.
- (b) All lots in Units 1, 2, 4 and 3 (other than undeveloped, unimproved Declarant Unit 3 Lots) which have not been developed and do not have any improvements on them-50%.
- (c) Lots with a residence, landscaping, or improvements, including those owned by Declarant-100%.

- (d) Lots originally platted as two (2) separate lots with a residence, landscaping or improvements, which have been replatted into one (1) single lot-150%.
- (e) Lots originally platted as two (2) separate lots which have not been developed and do not have any improvements on them and which have been replatted into one (1) single lot-100%.

The current monthly assessment for each originally platted lot with a residence, landscaping, or improvements is \$120.00. There will be no reduction in dues given for a residence with landscaping, fencing and/or improvements on more than one lot, except as set forth in subsections (d) and (e), above.

On December 31, 1996, all lots within the Properties shall be assessed as set forth above, other than the Declarant Unit 3 Lots which comply with Section 11, below.

5. Article V, Section 11 shall be added to read as follows:

Section 11. Assessments for Declarant Unit 3 Lots. Declarant, for so long as Declarant owns thirty percent (30%) plus one of the Unit 3 Lots, shall not be obligated to pay assessments to the Association for the undeveloped, unimproved Declarant Unit 3 Lots. The Declarant, rather than the Association, will pay for all maintenance and expenses (i) attributable to Unit 3 Lots owned by Declarant and (ii) all common areas and roads located within Unit 3. Declarant agrees to maintain such areas in a good condition and state of repair. If Declarant fails to maintain Declarant Unit 3 Lots, common areas and roads as herein provided, the Association shall have the right to a) perform or arrange for the performance of the maintenance and repairs; b) secure the cost of such maintenance and repairs, together with interest thereon, with a continuing vendor's lien upon the Declarant Unit 3 Lots, plus interest, attorney's fees and any other costs incurred; and c) exercise any rights and remedies provided into the Association in the Declaration against Owners, whether or not the Declarant, for failure to maintain property or for failure to pay assessments.

At such time as Declarant is no longer the owner of 30% plus one or more of the Unit 3 Lots, Declarant agrees and covenants to pay to the Association the assessments set forth in this Section 5, above, and the Association shall be responsible for all maintenance and expenses of all improved Unit 3 Lots, and the Unit 3 Common Areas.

6. Article VI, Section 7 shall be amended and restated in its entirety to read as follows:

Section 7. There may be an Architectural Control Committee which shall govern the development of all lots on Units 1, 2 and 4, in conjunction with the Architectural Control Committee of the Dominion Homeowners' Association. No construction of any Improvement shall be commenced on, in or within Unit 3 without the prior written approval from the Architectural Control Committee of the Dominion Homeowners' Association. Once Declarant has developed or sold to Owners other than Declarant more than seventy percent (70%) of the Unit 3 Lots, all lots within Unit 3 must comply with and receive the approval of the Architectural Control Committee of the Dominion Homeowners' Association and the Architectural Control Committee of the Dominion Cottage Estates Owners' Association (if one has been established), prior to the construction of any improvements or landscaping on any lot within Unit 3.

7. Article VIII shall be amended in its entirety and restated as follows:

**Article VIII
Dwelling Restrictions**

The total floor area of the main structure of any dwelling shall not be less than one thousand eight hundred (1800) square feet. This area shall be exclusive of open porches, breezeways, garages and other out buildings or areas of a similar nature which are typically not air conditioned. Carports and wood siding shall not be permitted on any lot. All garages must be set back a minimum of eighteen feet (18') from the rear and the front property line. There shall be an alley behind all Unit 3 Lots except for those lots which are adjacent to (i) Dominion Drive, (ii) the golf course; (iii) the lakes in the Common Area, or (iv) Lot 1 in Unit 3 Phase I.

8. Article XIII shall be amended such that the last sentence of Article XIII shall be deleted in its entirety, and the following shall be added to Article XIII:

"No sales pavilions, sales trailers, sales offices or model homes shall be permitted within Units One, Two, Three or Four of the Dominion Cottage Estates Subdivision PUD."

9. Article XIV shall be amended and restated in its entirety as follows:

Article XIV
Signs

No signs of any kind shall be displayed to the public view on any single family residential lot including, but not limited to, the displaying of any signs which advertise the lot or improvements, for sale or lease, except as expressly permitted hereunder. The Architectural Control Committee shall establish standardized sign criteria which permit the displaying of one sign per lot which is uniform in size, color and permitted location on the lot, which such sign can be used to identify that a particular lot is for sale or lease; provided, however, that said sign shall not contain the words "For Sale", "For Lease", "Available" or any other similar descriptive words, and such signs shall not display the name, logo or phone number of any real estate company or Owner's agent. The Committee specifically reserves the right to establish a separate set of sign standards and criteria to apply during construction of the dwelling on such lots and a separate set of standards and criteria to apply to such lots after a dwelling has first been occupied thereon, and to modify such standards and criteria from time to time. The Architectural Control Committee may allow a development sign, as approved by the Architectural Control Committee. Declarant agrees to secure the pre-approval of its signage from the Dominion Homeowners' Association in accordance with the Declaration of Covenants, Conditions, Easements and Restrictions for the Dominion Planned Unit Development and the guidelines set forth by the Dominion Homeowners' Association and the Dominion Architectural Control Committee.

10. There shall be added to Article XV Section 1 the following:

During construction of improvements on lots, all lots must be kept in a clean and orderly condition. Excess building materials, trash and refuse must be removed regularly. The Association shall have the right, at any time, after thirty (30) days written notice to the Owner, to clean such lots and assess the Owner if the Owner does not clean the lot within such time period. If such assessment is not paid within thirty (30) days of the date an invoice of such assessment is mailed to the Owner, the Association may enforce such assessment in the manner provided in Article V of the Declaration, as amended.

11. Article XV, Sections 3 and 4 are hereby deleted in their entirety and the following Sections 3 and 4 are inserted in lieu thereof:

Section 3. Reservation. Each Owner (other than Declarant for so long as each Unit 3 Lot owned by Declarant remains undeveloped and unimproved and Declarant is not in default under Article V, Section 11 of the Declaration), by acceptance of their deed to their lot hereby grants to the Association the exclusive right to do the following:

- (a) Maintain the lawn, shrubs, plants, and trees up to 8 feet located in the front, side and rear yards of each lot which includes all areas visible from the street on corner lots. Such maintenance shall include but not be limited to cutting, edging, mowing, fertilizing, watering, and removal of any dead or diseased plants. In this regard the Association is authorized to contract such maintenance as it in its discretion deems appropriate, which cost shall be included in the assessment as set out herein. There will be no reduction in dues given for any Owner who desires to maintain his/her/its own lot.
- (b) Each lot with a residence is required to be equipped with an underground sprinkler system with automatic timing. The timing shall be enclosed in a sealed case, and shall be placed outside the residence and within the yard of each lot. The Association shall have the right to set the time on for periodically watering should the Owner or Occupant of the lot fail to water.

Locked yards of the residences shall be under the sole maintenance and care of the individual Owners of such lot provided, however, that should an Owner neglect the upkeep and care of his fenced area, the Association shall have the right to enter such area, correct such deficiency and bill the Owner the cost of such maintenance. All fees and expenses incurred under this Article XV shall be deemed an assessment enforceable as a lien under Section 8 of Article V.

Each Owner agrees to paint the wood surfaces of the exterior of his residence as often as needed, but in no event less than once every three years. Each Owner is, in addition, responsible to repair or replace any broken or cracked windows, doors, or other damaged exterior surfaces of his residence. Should the Owner not properly maintain his residence as set herein, the Association is granted the right to contract for such services and bill the Owner the cost of such maintenance. Such cost shall be deemed to be an assessment enforceable as a lien under Section 8 of Article V.

Section 4. Declarant Maintenance. For so long as Declarant owns thirty percent (30%) or more of the Unit 3 Lots, Declarant shall be responsible for the maintenance of all Unit 3 Lots owned by Declarant, as well as all common areas and roads located within Unit 3. Declarant hereby agrees to maintain such lots, common areas and roads in a good condition and state of repair. All landscaping on Declarant Unit 3 Lots must be regularly performed by the same company to ensure that it is uniformly and consistently maintained. Once a Declarant Unit 3 Lot is sold by Declarant, or is developed by Declarant, then such lot shall immediately be subject to the maintenance requirements set forth in Article XV as amended herein, and the assessments set forth in Article V.

12. There shall be added a new Article LI, which shall read as follows:

Article LI

The private streets within Unit 3 ("Streets") shall be constructed and transferred and conveyed in fee simple title to the Dominion Homeowners Association free and clear of any encumbrances or liens prior to the sale and/or conveyance of a platted lot within Unit 3. The greenbelts and any other common areas other than private streets within Unit 3 (the "Common Areas") shall be transferred and conveyed to the Association in fee simple title free and clear of any encumbrances or liens prior to the sale and/or conveyance of a platted lot within Unit 3, or if Declarant develops Unit 3 in phases, prior to the sale and/or conveyance of a platted lot within each such phase of Unit 3. Unit 3 may be developed and platted in up to a maximum of four (4) phases. The maintenance and expenses of the Streets and Common Areas shall be the responsibility of Declarant for so long as Declarant owns thirty percent (30%) of the Unit 3 Lots, as set forth in Article V, Section 11, above. At the time the Dominion Homeowners Association's responsibility for the maintenance of the Streets begins, and the Association's responsibility for the Common Areas begins, Declarant shall certify to the Association or the Dominion Homeowners Association, as the case may be, that the Streets and Common Areas are in good condition and in a state of good repair and maintenance, including any plants or materials placed or planted within the Common Areas. In the event Declarant develops Unit 3 in phases, then the provisions of this Article shall apply as to each phase in Unit 3, if, as and when it is developed, except for the responsibility for maintenance and expenses of Declarant Unit 3 Lots, which shall be governed by Article V, above.

EXECUTED this 13 day of March, 1995¹⁵

DOMINION COTTAGE ESTATES OWNERS' ASSOCIATION, INC.

By: [Signature]
Richard Thum
Its: President

Approved and Agreed:

~~INTCO, INC.~~ Declarant of ~~The~~ Dominion Homeowners Association

By: _____
Its: _____

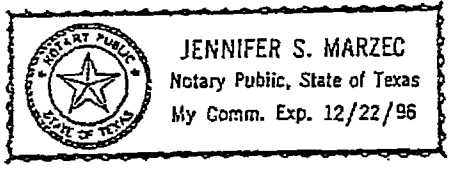
INTCO-DOMINION PARTNERSHIP, a Texas general partnership.
By INTCO HOMEOWNERS' ASSOCIATION, a Texas limited partnership,
its managing general partner.
By: INTCO INVESTMENTS OF TEXAS, INC., a Texas
corporation, its general partner
By: [Signature]
Authorized Representative

DOMINION HOMEOWNERS' ASSOCIATION

By: Susan Wright
Its: President

STATE OF TEXAS §
 §
COUNTY OF BEXAR §

This instrument was acknowledged before me on the 13th day of March, 1995, by RICHARD THUM, the President of the Dominion Cottage Estates Owners' Association, Inc., a Texas non-profit corporation.



Jennifer S. Marzec
Notary Public, State of Texas
My Commission Expires: 12/22/96

SUTTON DOMINION, LTD.,
A TEXAS LIMITED PARTNERSHIP

By its General Partner:
SPERSIBS DEVELOPMENT COMPANY I,
A DELAWARE CORPORATION

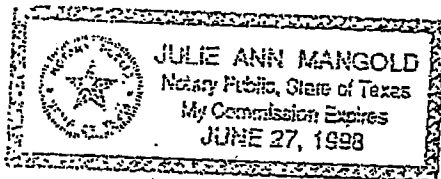
By: Philip Spertus
Philip Spertus
Its: President

STATE OF TEXAS

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COUNTY OF BEXAR

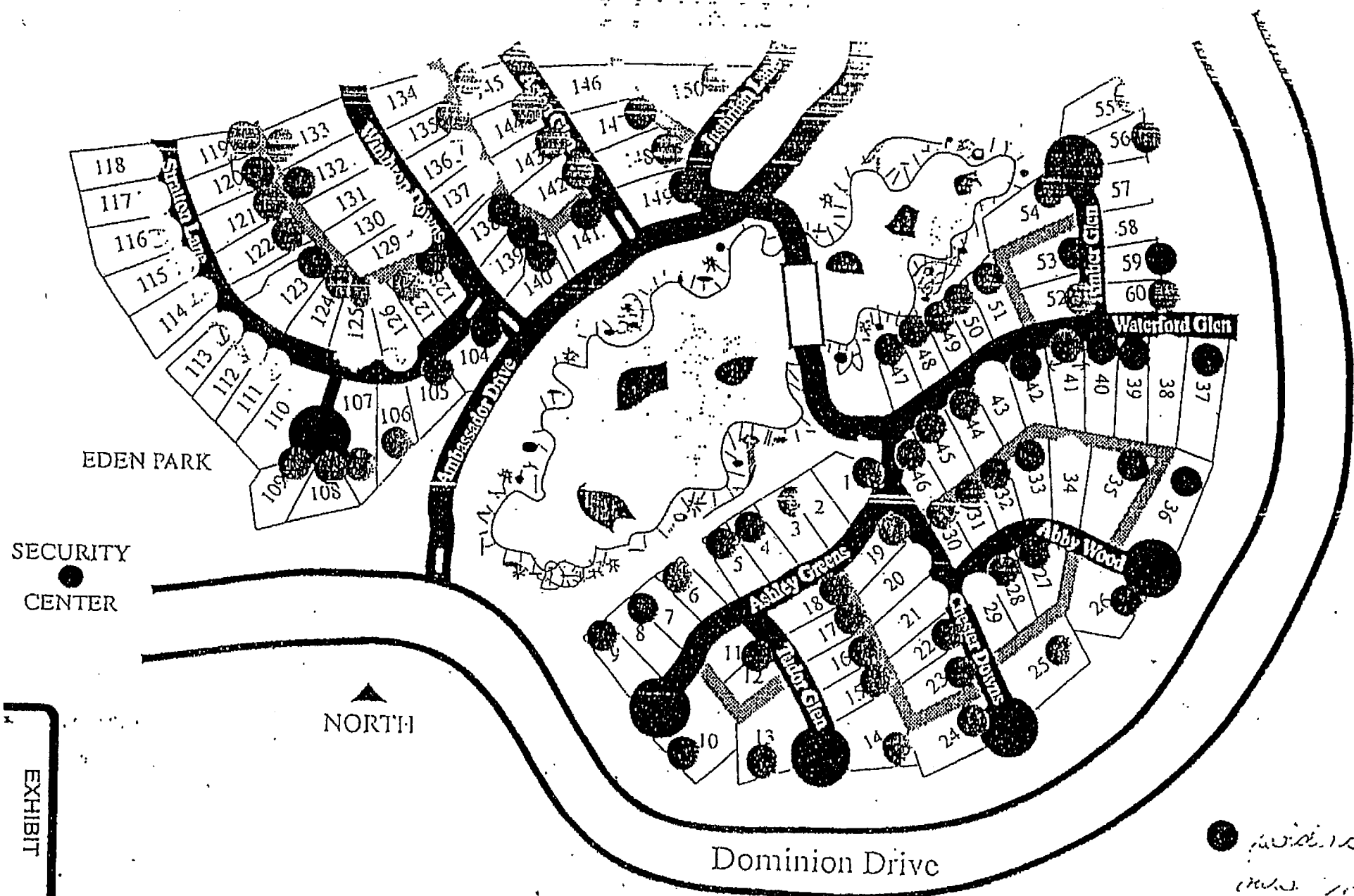
This instrument was acknowledged before me on this 15th day of Nov.,
1995, by Philip Spertus, President of Spersibs Development Company I, the General
Partner of Sutton Dominion, Ltd., a Texas limited partnership.



Julie Ann Mangold
Notary Public, State of Texas
My Commission Expires: 6/27/98

After Recording Return to:

Marlise A. Kercheville
Davis, Adami & Cedillo, Inc.
7710 Jones Maltsberger, Suite 400
San Antonio, Texas 78216



EXHIBIT

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